

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

JACKIE SWAN

PLAINTIFF

VS.

CASE NUMBER: 3:21-cv-187-CWR-LGI

**COMCAST CORPORATION
D/B/A XFINITY**

DEFENDANT

NOTICE OF REMOVAL BY DEFENDANT COMCAST CORPORATION

For the limited purpose of timely removal of this action to this Honorable Court and without waiving and expressly reserving any all defenses, including jurisdictional defenses Defendant, Comcast Corporation (named in Plaintiff’s Complaint as “Comcast Corporation d/b/a Xfinity”), hereby gives notice of the removal of this case from the County Court of Hinds County, Mississippi, First Judicial District (Civil Action No. 20-3794), State of Mississippi, to the United States District Court for the Southern District of Mississippi, asserting “diversity” jurisdiction, as there is complete diversity between the two parties and the amount in controversy exceeds the requisite amount. In support of removal based on diversity, Comcast Corporation submits the following short and plain statement of the basis for its removal:

1.

Defendant bases this removal on diversity jurisdiction per 28 U.S.C. §§ 1332 and 1441, *et seq.* This Court has subject matter jurisdiction per 28 U.S.C. § 1332.¹ Removal is proper per 28

¹ (West 2021).

U.S.C. §§ 1332 and 1441.²

2.

Venue is proper in the United States District Court for the Southern District of Mississippi because the County Court of Hinds County, Mississippi, First Judicial District, State of Mississippi, is within the Southern District of Mississippi.³

3.

Plaintiff, Jackie Swan, filed a Complaint against Defendant, Comcast Corporation, on October 29, 2020 in the proceeding entitled *Jackie Swan v. Comcast Corporation d/b/a/ Xfinity*, bearing Civil Action No. 20-3794, County Court of Hinds County, Mississippi, First Judicial District.⁴ Plaintiff alleges she sustained injury by electrical shock she claims resulted from Defendant's simple and/or negligence, seeks special damages of \$45,000, and seeks compensatory damages of \$200,000.⁵

4.

This Notice of Removal is filed within 30 days of service of Plaintiff's Complaint on February 8, 2021, per the requirements of 28 U.S.C. § 1446(b)(1), and within one year of the commencement of this action by the filing of Plaintiff's Complaint on October 29, 2020, per the requirements of 28 U.S.C. § 1446(c).

² (West 2021).

³ *Id.*

⁴ Petition for Damages, attached as Exh. A.

⁵ *Id.* at ¶¶ IV – V & Prayer for Relief.

5.

Removal of this action from state court to federal court is authorized by the diversity jurisdiction and removal statutes, 28 U.S.C. §§ 1332, 1441, *et seq.*⁶

6.

A defendant may remove an action on the basis of diversity of citizenship if there is complete diversity between the named Plaintiffs and all properly-joined and served defendants and no defendant is a citizen of the forum state.⁷ Complete diversity exists when “the citizenship of each plaintiff is diverse from the citizenship of each defendant.”⁸

7.

Plaintiff, Jackie Swan, resides in and is a citizen of the State of Mississippi.⁹ Accordingly, at the time this action was commenced and at the time of filing of this Notice of Removal, Plaintiff was and is a citizen of Mississippi for purposes of diversity jurisdiction.

8.

For diversity purposes, a corporation is a citizen of the state where it was incorporated and the state where it maintains its principal place of business.¹⁰

⁶ (West 2021).

⁷ *Lincoln Prop. Co. v. Roche*, 546 U.S. 81, 89 (2005).

⁸ *Caterpillar Inc. v. Lewis*, 519 U.S. 61, 67-68 (1996).

⁹ Petition for Damages, ¶¶ 1A – 1D, attached as Exh. A.

¹⁰ 28 U.S.C. §1332(c)(1); *Lincoln Prop. Co.*, 546 U.S. at 88-89; *Getty Oil Corp. v. Insurance Co. of N. Am.*, 841 F.2d 1254, 1258 (5th Cir. 1988).

9.

Comcast Corporation is the only named defendant in Plaintiff's Complaint. Comcast Corporation is a Pennsylvania corporation with its principal place of business in Philadelphia, Pennsylvania. Thus, complete diversity exists among the parties in accordance with 28 U.S.C. §§ 1332, 1441, *et seq.*

10.

Although Defendant denies liability, Defendant states that the amount in dispute clearly exceeds seventy-five thousand dollars (\$75,000), exclusive of interest and costs. Plaintiff's Complaint alleges special damages in the form of medical expenses "over \$45,000.00," seeks compensatory damages "in the amount of \$200,000," and alleges "injuries to her shoulder (torn rotator cuff), neck, arm, and hand."

11.

Where a plaintiff asserts damages in a Complaint, that amount in damages "shall be deemed to be the amount in controversy," per 28 U.S.C. §1446(c)(2). Thus, the amount in controversy necessary for diversity jurisdiction is satisfied per Plaintiff's Complaint.

12.

A copy of this Notice of Removal will be filed with the Clerk of Court of the County Court of Hinds County, Mississippi, First Judicial District, State of Mississippi. Plaintiff will likewise receive a timely copy of this Notice of Removal.

13.

Comcast Corporation will obtain and file the state court record in accordance with L.U.Civ.R. 5(b).

14.

Comcast Corporation will promptly provide written notice of this Notice of Removal to Plaintiff and, promptly after filing this Notice of Removal, will file a copy thereof with the Clerk of the County Court of Hinds County, Mississippi, First Judicial District.

WHEREFORE, Comcast Corporation prays that the above-entitled state court action, now pending in the County Court of Hinds County, Mississippi, First Judicial District, State of Mississippi, be accepted as removed to the United States District Court for the Southern District of Mississippi.

RESPECTFULLY SUBMITTED, this 10th day of March, 2021.

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Attorney for Comcast Corporation

CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of March, 2021, I electronically filed the foregoing with the Clerk of Court using the ECF system which sent notification of such filing to Plaintiff, Jackie Swan, through her counsel of record, Sanford Knott, and I hereby certify that I have mailed by United States Postal Service, postage prepaid, and by electronic mail a copy of the foregoing to Jackie Swan, through her counsel of record, Sanford Knott, Sanford Knott & Associates, P.A., Post Office Box 1208, Jackson, Mississippi 39215-1208 (sanford@sanfordknottlaw.com).

_____/s Joseph H. Hart, IV